REMARKS

This response is intended as a full and complete response to the final Office Action mailed December 5, 2007. In the Office Action, the Examiner notes that claims 1-64 are pending and rejected. By this response, Applicants have amended independent claims 1, 6, 26, 34, 43 and 59. Support for the amendments to the independent claims can be found in Applicants' specification on at least page 28, lines 17-24 and page 36, line 6 to page 37, line 3.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of the claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response including amendments.

REJECTION OF CLAIMS 1-64 UNDER 35 U.S.C §103

Claims 1-13, 15-33, 43-50, 52-54, 56, 57, and 59-64

The Examiner has rejected claims 1-13, 15-33, 43-50, 52-54, 56, 57, and 59-64 under 35 U.S.C. §103(a) as being unpatentable over Rosser (6,446,261, hereinafter "Rosser") in view of Kitsukawa et al. (6,282,713, hereinafter "Kitsukawa") and O'Toole, Jr. et al. (6,279,112, hereinafter "O'Toole"). The rejection is traversed.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Thus, it is impermissible to focus either on the "gist" or "core" of the invention. Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves.

Rosser, Kitsukawa and O'Toole alone or in combination fail to teach or suggest Applicants' invention of at least claim 1 as a whole.

Independent claim 1 recites:

1. A method for targeting interactive virtual advertisements, comprising:
assigning at least one interactive spot to a program;
assigning one or more interactive virtual objects to the at least one virtual advertisement spot, wherein said one or more interactive virtual objects are dynamic;
generating a retrieval plan;
providing the retrieval plan to a terminal, wherein the retrieval plan instructs the terminals to select one of the one or more interactive virtual objects selected from a ranked list of the one or more interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said one or more interactive virtual objects in a corresponding virtual object location;
allocating delivery bandwidth within an available amount of total bandwidth in a communication channel for the selected one of the one or more interactive virtual objects via a resource management engine;
delivering the selected one of the one or more interactive virtual objects via said allocated delivery bandwidth;
receiving a selection of at least one of the one or more interactive virtual objects;
logging the received selection of said at least one of the one or more interactive virtual objects; and
billing an advertiser of said selected at least one of the one or more interactive virtual objects in response to said logged selection. (Emphasis added).

In an exemplary embodiment, Applicants' invention teaches that the interactive virtual objects may be transmitted over any cable system for example a coaxial cable network, totally fiber network, hybrid fiber coax network, fiber to the curb network or any other cable distribution technology. (See e.g., Applicants' specification, p. 55, ll. 1-2). Consequently, sufficient bandwidth must be allocated to deliver the interactive virtual objects. (See e.g., Applicants' specification, p. 28, ll. 17-24). The resource management engine allocates bandwidth within a total amount of available bandwidth in a communication channel. (See *Id.*).

In addition, the Applicants' invention uses a measure of effectiveness for each virtual object if displayed in a corresponding virtual object location in determining a ranked list of the virtual interactive objects. (See *Id.* at p. 36, l. 6 – p. 37, l. 3) Furthermore, Applicants' invention logs selection of interactive advertisements for billing

an advertiser based upon the positive indication that an advertisement was actively viewed by a subscriber. (See *Id.* at p. 69, lines 15-23).

Nowhere in Rosser is there any teaching or suggestion of Applicants' method or system for targeting interactive virtual advertisements comprising providing the retrieval plan to a terminal, wherein the retrieval plan instructs the terminals to select one of the one or more interactive virtual objects selected from a ranked list of the one or more interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said one or more interactive virtual objects in a corresponding virtual object location, allocating delivery bandwidth within an available amount of total bandwidth in a communication channel for the selected one of the one or more interactive virtual objects via a resource management engine and billing an advertiser of said selected at least one of the one or more interactive virtual objects in response to said logged selection, as recited in at least claim 1. Rosser discloses a set top device for targeted electronic insertion of indicia into video. Rosser teaches that the advertising insertions are delivered via a vertical blanking interval (VBI). (See Rosser, col. 4, ll. 24-29.) Therefore, no allocation of delivery bandwidth is required because Rosser teaches that the advertising insertions may simply be inserted into space already available. In stark contrast, Applicants' invention teaches that the interactive virtual objects are transmitted over cable systems. Thus, a resource management engine is required to allocate delivery bandwidth for the selected interactive virtual objects.

The Examiner continues to assert that bandwidth allocation can be an arbitrarily selected bandwidth portion for delivering a separate compressed video signal and not a pre-existing designated bandwidth portion. (See Office Action, p. 2). Responsive to the Examiner, the Applicants' have amended the independent claims to specify that the bandwidth allocation is within an available amount of total bandwidth of a communication channel. Consequently, the Applicants believe that this precludes the Examiner's overly broad interpretation of the Applicants' claims. In view of this limitation, the Applicants respectfully submit that Rosser clearly fails to teach or suggest allocating delivery bandwidth within an available amount of total bandwidth in a

communication channel for the selected one of the one or more interactive virtual objects via a resource management engine.

As previously argued and in view of the above amendment, Rosser does not teach how the data is allocated within the different delivery methods. For example, Rosser may simply insert the data into one of the delivery methods simply on a first in first out method. Therefore, Rosser does not teach or suggest allocating delivery bandwidth within an available amount of total bandwidth in a communication channel for the selected one of the one or more interactive virtual objects via a resource management engine. Consequently, Applicants respectfully submit that contrary to the Examiner's assertion, a resource management engine is not an inherent feature. As such, Applicants' respectfully submit that Rosser also fails to teach or suggest the use of a resource management engine.

Furthermore, Applicants respectfully submit that Rosser also fails to teach or suggest providing the retrieval plan to a terminal, wherein the retrieval plan instructs the terminals to select one of the one or more interactive virtual objects selected from a ranked list of the one or more interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said one or more interactive virtual objects in a corresponding virtual object location and billing an advertiser of said selected at least one of the one or more interactive virtual objects in response to said logged selection.

Kitsukaw and O'Toole fail to bridge the substantial gap between Rosser and Applicants' invention. In particular, Kitsukawa only teaches the use of static icons to represent links to advertisements for items in a scene. (See Kitsukawa, col. 8, ll. 16-36, FIG. 5.)

Moreover, O'Toole teaches charging a user on a per-usage basis for the user's access to information. (See O'Toole, col. 3, ll. 21-30). Notably, a metering log is activated when a user activates a link to documents. (See *Id.* at col. 11, l. 34 – col. 12, l. 38). O'Toole mentions that the metering log may be used for advertising feedback. (See *Id.* at col. 12, ll. 39-48). However, the advertiser is only charged whenever a client computer displays portions of documents on which advertisements are also displayed. Notably, the metering does not track a selection of the advertisement itself. In other

words, O'Toole simply teaches that an advertiser is charged when their advertisement is displayed. In contrast, the Applicants' invention teaches billing an advertiser when an advertiser's interactive virtual object is selected.

In addition, nowhere in Kitsukawa or O'Toole is there any teaching or suggestion of Applicants' invention of method or system for targeting interactive virtual advertisements comprising providing the retrieval plan to a terminal, wherein the retrieval plan instructs the terminals to select one of the one or more interactive virtual objects selected from a ranked list of the one or more interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said one or more interactive virtual objects in a corresponding virtual object location, as recited in at least claim 1. Therefore, Rosser, Kitsukawa and O'Toole, alone or in combination, do not teach or suggest Applicants' invention of at least claim 1 as a whole. As such, Applicants submit that independent claim 1 is not obvious over Rosser, Kitsukawa and O'Toole and is patentable under 35 U.S.C. §103.

Independent claims 6, 26, 43 and 59 recite relevant limitations similar to those recited in independent claim 1. As such, for at least the same reasons discussed above, Applicants submit that independent claims 6, 26, 43 and 59 also are not obvious and are patentable over Rosser, Kitsukawa and O'Toole under 35 U.S.C. §103. Furthermore claims 2-5, 7-13, 15-25, 27-33, 44-50, 52-54, 56, 57, and 60-64 depend directly or indirectly from independent claims 1, 26, 43 and 59 while adding additional elements. Therefore, these dependent claims also are not obvious and are patentable under 35 U.S.C. §103 for at least the same reasons discussed above in regards to independent claims 1, 26, 43 and 59. Therefore, the rejection should be withdrawn.

Claim 14

Claim 14 is rejected under 35 U.S.C. §103(a) as being unpatentable over Rosser, Kitsukawa and O'Toole as applied to claim 13 above, and further in view of Hendricks et al. (5,600,364, hereinafter "Hendricks") and Del Sesto et al. (6,530,082, hereinafter "Sesto"). The rejection is traversed.

This ground of rejection applies only to a dependent claim and is predicated on the validity of the rejection under 35 U.S.C. §103 given Rosser in view of Kitsukawa and

O'Toole for the corresponding independent claim. Since the rejection of the corresponding independent claim under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Hendricks and DelSesto alone or in combination supply that which is missing from Rosser in view of Kitsukawa and O'Toole to render the independent claim obvious, this ground of rejection cannot be maintained. Therefore, the rejection should be withdrawn.

Claims 34-42

Claims 34-42 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rosser in view of Kitsukawa, Zigmond et al. (6,698,020, hereinafter "Zigmond") and O'Toole. The rejection is traversed.

For at least the reasons discussed above in response to the Examiner's 35 U.S.C. §103(a) rejection of independent claim 1, Rosser, Kitsukawa and O'Toole alone or in combination fail to teach or suggest Applicants' invention as a whole. In particular, Rosser, Kitsukawa and O'Toole alone or in combination are devoid of any teaching or suggestion of Applicants' invention of a terminal for targeting interactive virtual objects comprising a connector that receives the interactive virtual objects and interactive virtual object locations and metadata via delivery bandwidth allocated within an available amount of total bandwidth in a communication channel by a resource management engine, an interactive virtual object selector processor coupled to the storage processor that determines an interactive virtual object placement for one or more stored interactive virtual objects selected from a ranked list of said interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said interactive virtual objects in a corresponding virtual object location and a computer readable memory for logging a received selection of at least one of the interactive virtual objects, wherein said logged selection is used for billing an advertiser of said selected at least one of the interactive virtual objects, as recited in at least claim 34.

Zigmond fails to bridge the substantial gap between Rosser and Kitsukawa and Applicants' invention. Zigmond only teaches techniques for intelligent video ad

insertion. (See Zigmond, Abstract). Zigmond also fails to teach or suggest a terminal for targeting interactive virtual objects comprising a connector that receives the interactive virtual objects and interactive virtual object locations and metadata via delivery bandwidth allocated within an available amount of total bandwidth in a communication channel by a resource management engine, an interactive virtual object selector processor coupled to the storage processor that determines an interactive virtual object placement for one or more stored interactive virtual objects selected from a ranked list of said interactive virtual objects, wherein said ranked list is determined at least by a measure of effectiveness for each one of said interactive virtual objects in a corresponding virtual object location and a computer readable memory for logging a received selection of at least one of the interactive virtual objects, wherein said logged selection is used for billing an advertiser of said selected at least one of the interactive virtual objects.

As such, Applicants submit that independent claim 34 is not obvious and is patentable over Rosser in view of Kitsukawa, Zigmond and O'Toole under 35 U.S.C. §103. Furthermore claims 35-42 depend directly or indirectly from independent claim 34 while adding additional elements. Therefore, these dependent claims also are not obvious and are patentable under 35 U.S.C. §103 for at least the same reasons discussed above in regards to independent claim 34. Therefore, the rejection should be withdrawn.

Claim 51

Claim 51 is rejected under 35 U.S.C. §103(a) as being unpatentable over Rosser, Kitsukawa and O'Toole as applied to claim 50 above, and further in view of DelSesto. The rejection is traversed.

This ground of rejection applies only to a dependent claim and is predicated on the validity of the rejection under 35 U.S.C. §103 given Rosser in view of Kitsukawa and O'Toole for the corresponding independent claim. Since the rejection of the corresponding independent claim under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that DelSesto supplies that which is missing from Rosser in view of Kitsukawa and O'Toole

to render the independent claim obvious, this ground of rejection cannot be maintained. Therefore, the rejection should be withdrawn.

Claims 55 and 58

Claims 55 and 58 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rosser, Kitsukawa and O'Toole as applied to claims 43 and 54 above, and further in view of Zigmond. The rejection is traversed.

This ground of rejection applies only to dependent claims and is predicated on the validity of the rejection under 35 U.S.C. §103 given Rosser in view of Kitsukawa and O'Toole for the corresponding independent claim. Since the rejection of the corresponding independent claim under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Zigmond supplies that which is missing from Rosser in view of Kitsukawa and O'Toole to render the independent claim obvious, this ground of rejection cannot be maintained. Therefore, the rejection should be withdrawn.

CONCLUSION

Thus, Applicants submit that none of the claims, presently in the application, are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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